

Supreme Court, U. S.  
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MICHAEL RODAK, JR., CLERK

In the

Supreme Court of the United States

October Term, 1977

No. 77-1004

Michael DeLuca, Robert Voulo, and Saverio  
Carrara, Petitioners,

v.

United States of America,

Respondent.

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**PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

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Michael DeLuca, Robert Voulo and  
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PETITION FOR A WRIT OF  
CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR  
THE SECOND CIRCUIT

Petitioners pray that a writ of certiorari  
issue to review the judgement of the United  
States Court of Appeals for the Second Circuit  
entered October 13, 1977.

CITATIONS TO OPINIONS BELOW

There is being filed in this Court  
concurrently with this petition, or there  
will have been filed, a petition for

certiorari by James Napoli, Sr. and James Napoli, Jr., co-appellants with petitioners in the Second Circuit Court of Appeals. That petition (referred to hereinafter as "the Napoli petition") contains the opinions below required to be reproduced in this Court, as well as their citations. Reference will also be made herein to a petition for certiorari filed on behalf of Bario Mascitti, hereinafter referred as "the Mascitti petition."

#### JURISDICTION

The Court of Appeals decision denying petition for rehearing was entered December 15, 1977. The jurisdiction of this Court rests upon 28 U.S.C. 1254 (1).

#### QUESTIONS PRESENTED, PROVISIONS INVOLVED, STATEMENT and REASONS FOR GRANTING THE WRIT

Petitioners Michael DeLuca, Robert Voulo and Saverio Carrara were convicted on October 15, 1976 in the United States District Court for the Eastern District of New York of violating the anti-gambling statute. 18 U.S.C.

1955. DeLuca received a prison sentence of six months followed by five years probation, Voulo a prison term of two months followed by thirty-four months probation and Carrara a prison term of four months followed by thirty-two months probation.

Part of the Government's proof consisted of conversations overheard through a Government bug planted at Apartment 309, 8-15 27th Avenue, Astoria, Queens. DeLuca was extensively mentioned in those conversations, as was Voulo and Carrara. Based on that the Government placed a phone tap on the Howard Beach phone of Voulo's uncle. Voulo incriminated himself in conversations on the Howard Beach phone.

The Government also planted a bug at the Hi-Way Lounge, allegedly used by the Napoli defendants as headquarters for their gambling operations. DeLuca, Voulo and Carrara were overheard in incriminating conversations recorded through the Hi-Way Lounge bug as well.

The questions raised by this petition relate first to the legality of the Apartment 309 bug and second to the legality of the Hi-Way Lounge bug. With respect to the first, we respectfully refer to the Mascitti petition (and incorporate it here by reference) for a full statement of the Questions Presented, the Provisions Involved, the Facts, and the Reasons for Granting the Writ. With respect to the second, we respectfully refer to the Napoli petition (and incorporate it here by reference) for a full statement of the same items on the Hi-Way Lounge bug. We also adopt all other points relating to such questions which may be raised in this Court by any other of petitioners' co-appellants, including appellants Anthony D. Matteo, Eugene Scafidi and Sabato Vigorito.

Since the petitioners were overheard through the Hi-Way Lounge bug, they have standing to challenge that bug, as the Court of Appeals

indicated. They similarly have standing to challenge the 309 bug. Conversation there about "Bobby" led the Government to name Voulo as a subject on the Howard Beach tap to intercept his conversations. And incriminating evidence about DeLuca and Carrara came in through the conversations of others.

CONCLUSION

The petition should be granted.

Respectfully submitted,

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